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BIRCH, STEWART, KOLASCH & BIRCH
P.O. Box 747
Falls Church, VA 22040-0747

JUL 11 2002

In re Application of)
BAINES)
Application No. 07/702,615)
Filed: May 17, 1991)
For: ELECTRIC MOTOR)

DECISION ON PETITION
TO WITHDRAW HOLDING
OF ABANDONMENT

This is a decision on the petition filed on May 9, 2002, and supplemented on June 17, 2002, to withdraw the holding of abandonment of the above-identified application. No fee is required for the petition.


The petition is **GRANTED** to the extent indicated below.

This application was held abandoned for failure to respond in a timely manner to the decision of the Board of Patent Appeals rendered on January 31, 2002. A Notice of Abandonment was mailed on April 10, 2002.

Petitioner states that a request for a continued prosecution application (CPA) was filed on March 28, 2002. To support this assertion, petitioner has submitted a copy of the CPA and a copy of a return postcard which acknowledges receipt of a request for a CPA by the Patent and Trademark Office on March 28, 2002. A review of the application file indicates that the original request for a CPA is not of record in the application file and cannot be located. However, M.P.E.P. § 503 states that "A post card receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO." Accordingly, it is concluded that a request for a CPA was timely received in the PTO but lost after receipt thereof.

Since a request for a CPA expressly abandons the prior application as of the filing date of the request, parent Application No. 07/702,615 was expressly abandoned in favor of a CPA on March 28, 2002. Accordingly, the mailing of a Notice of Abandonment for failure to respond to the final Office action was in error and is hereby vacated.

The application file is being forwarded to the technical support staff for Technology Center 2800 for processing of the request for a CPA.


for Hien H. Phan, Special Program Examiner
Technology Center 2800 - Semiconductors, Electrical
and Optical Systems and Components